

APR 27 2004

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

MUR 4952

Mark Jimenez (a/k/a "Mario Batacan Crespo")

GENERAL COUNSEL'S REPORT<sup>1</sup>

2004 APR 27 A 10:10

**SENSITIVE**

**I. ACTIONS RECOMMENDED**

Take no further action and close the file.

**II. DISCUSSION**

This matter concerns the activities of Mark Jimenez (a/k/a "Mario Batacan Crespo"), formerly the Chief Executive Officer of Future Tech International, Inc. ("Future Tech"). On March 16, 1999, the Commission, in MUR 4884, found reason to believe that Mr. Jimenez and Future Tech violated 2 U.S.C. § 441e in connection with \$110,000 in contributions made with Future Tech funds, at Mr. Jimenez's direction, to a non-federal account of the Democratic National Committee. The Commission also found reason to believe that Mr. Jimenez, Future Tech and four Future Tech officers knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f, and that Mr. Jimenez also violated 2 U.S.C. §§ 441a(a)(1)(A) and 441a(a)(3), in connection with the reimbursement of \$39,500 in federal contributions. See MUR 4884 General Counsel's Report dated February 12, 1999. Mr. Jimenez fled to the Philippines in late 1998, prior to the Commission's findings.

Pursuant to a global settlement in which Future Tech pleaded guilty to related criminal charges and paid a \$1.2 million criminal fine (Future Tech also pleaded guilty to tax evasion charges associated with the illegal contributions), the Commission accepted an agreement from

<sup>1</sup> Although this is the first General Counsel's Report in this matter (activated October 6, 2003), it has been styled as a follow-up report because the Commission's reason-to-believe findings against this respondent were made in connection with the original matter, MUR 4884 (Future Tech), which was closed in 1999.

Future Tech and four officers which included a combined civil penalty of \$209,000

On December 7, 1999, based on Mr. Jimenez's fugitive status in the Philippines and efforts by the U.S. Department of Justice ("DOJ") to extradite him for related criminal indictments,<sup>2</sup> the Commission opened a new matter, MUR 4952, with the understanding that the case could be activated as circumstances warranted. See MUR 4884 General Counsel's Report dated November 30, 1999. On April 17, 2001 and again on August 27, 2002, the Commission voted to maintain MUR 4952 on the docket, instructing this Office to review the matter on an annual basis and make appropriate recommendations.

In December 2002, Mr. Jimenez was extradited from the Philippines to face tax evasion and campaign finance charges in the Southern District of Florida. On August 1, 2003, before the U.S. District Court for the Southern District of Florida, Mr. Jimenez pleaded guilty to two counts of tax evasion and one count of conspiracy to defraud the United States and commit FECA-related offenses. Mr. Jimenez admitted making \$41,500 in illegally reimbursed campaign contributions to various candidates for federal office from 1994 through 1996.<sup>3</sup> On November 13, 2003, Mr. Jimenez was sentenced to a prison term of 27 months and ordered to

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<sup>2</sup> See Jimenez Indictment, filed September 30, 1998 (D.D.C. 1998) (No. 98-0343) (described in MUR 4884 General Counsel's Report dated February 12, 1999). A second federal indictment was handed down in Miami in April 1999, containing additional charges of conspiracy, tax evasion and mail fraud against Mr. Jimenez.

<sup>3</sup> The \$41,500 amount referenced in the plea agreement exceeds the amount referenced in the Commission's Factual & Legal Analysis by \$2,000; the reason for this discrepancy is not clear from the DOJ referral materials.

1 pay the U.S. Government \$1.2 million. He is currently incarcerated at a federal prison in  
2 Allenwood, Pennsylvania.

3 On October 20, 2003, this Office received from DOJ the attached letter, which included  
4 Mr. Jimenez's plea agreement and factual resume. *See* Attachment 1. However, nothing in the  
5 agreement requires Mr. Jimenez to cooperate with the Commission and/or waive the statute of  
6 limitations with respect to his FECA violations, as he did with respect to the criminal charges.

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13 In counsel's opinion, the Commission could not  
14 enforce a judgment in federal district court against his client because the statute of limitations  
15 has expired, and he has informed us that his client definitely will not agree to waive it.

16 At this juncture, this Office believes that the Commission would be best served by not  
17 pursuing this matter given the age of the activity, the substantial prison sentence Mr. Jimenez is  
18 currently serving, his criminal fine of over \$1 million and tenuous financial status,<sup>4</sup> and the  
19 substantial criminal and civil penalties already paid by his corporation for some of the same  
20 violative conduct engaged in by him. Moreover, should this matter be pursued to litigation, there

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<sup>4</sup> Mr. Jimenez's counsel asserts that his client's liabilities greatly exceed his assets, which is supported by information provided by DOJ along with a \$17 million court judgment against Mr. Jimenez. The judgment was entered against him on April 16, 2002, in the U.S. Bankruptcy Court for the Southern District of Florida. *See* Notice of Entry of Default Final Judgment Against Mark Jimenez, *FT Liquidating Corp. v. Markvision Holdings, B.V.I.*, No. 01-01174 (Bankr. S.D. Fla. April 16, 2002). Mr. Jimenez is currently attempting to set aside the judgment.

1 is no assurance that a court would rule that the statute of limitations should be tolled during  
2 Mr. Jimenez's absence from the United States.

3 Accordingly, this Office recommends that the Commission exercise its prosecutorial  
4 discretion and close the file in the matter.

5 **III. RECOMMENDATIONS**

- 6 1. Take no further action regarding Mark Jimenez (a/k/a "Mario Batacan Crespo")  
7 and close the file.  
8  
9 2. Approve the appropriate letters.

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11  
12 Lawrence H. Norton  
13 General Counsel

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16  
17 April 27, 2004  
18 Date

19  
20 BY: Susan L. Lebeaux  
21 Susan L. Lebeaux  
22 Assistant General Counsel

23  
24 Thomas J. Andersen  
25 Thomas J. Andersen  
26 Attorney

27 Attachment:

- 28 1. DOJ referral materials